

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:13-CV-00049-RLV
(5:03-CR-00004-RLV-3)

JORGE GONZALEZ-JAIMES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

THIS MATTER is before the Court on consideration of Petitioner's motion for reconsideration of the Order denying his petition for habeas relief pursuant to 28 U.S.C. § 2241.

Petitioner contends that relief was denied based on the Fourth Circuit's opinion in United States v. Surratt, 797 F.3d 240 (4th Cir. 2015), however that is plainly not the case. As the Court noted, the Fourth Circuit, in the case of In re Jones, 226 F.3d 328 (4th Cir. 2000), found that relief from a sentencing enhancement under § 2241 is only allowed when:

(1) at the time of conviction settled law of this circuit or the Supreme Court established the legality of the conviction; (2) subsequent to the prisoner's direct appeal and first § 2255 motion, the substantive law changed such that the conduct of which the prisoner was convicted is deemed not to be criminal; and (3) the prisoner cannot satisfy the gatekeeping provisions of § 2255 because the new rule is not of one of constitutional law.


Id. at 333-34.

For the reasons stated in the Court's Order, (Doc. No. 13), the motion for reconsideration is denied.

IT IS, THEREFORE, ORDERED that Petitioner's motion for reconsideration is

DENIED. (Doc. No. 15).

Signed: December 29, 2015

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive style with a horizontal line underneath the name.

Richard L. Voorhees
United States District Judge

